

REMARKS

In the final Office Action, the Examiner objected to the specification for a minor informality; objected to claim 85 for a minor informality; rejected claims 56-60, 62-66, 74-78, 80-84, and 92 under 35 U.S.C. § 102(e) as anticipated by Nazarathy et al. (U.S. Patent No. 6,490,727); rejected claims 67-73 and 85-91 under 35 U.S.C. § 103(a) as unpatentable over Nazarathy et al. in view of Naegeli et al. (U.S. Patent No. 6,574,797); and rejected claims 61 and 79 under 35 U.S.C. § 103(a) as unpatentable over Nazarathy et al. in view of Brock et al. (U.S. Patent No. 6,839,413).

By this Amendment, Applicants amend the specification to improve form, cancel claims 59, 64, 65, 77, 82, and 83 without prejudice or disclaimer, and amend claims 56, 74, 76, 79, 85, and 92 to improve form. Applicants respectfully traverse the Examiner's rejections under 35 U.S.C. § 102 and 103. Claims 56-58, 60-63, 66-76, 78-81, and 84-92 are pending.

OBJECTION TO THE SPECIFICATION

At paragraph 2 of the final Office Action, the Examiner objected to the specification, requesting the serial number for an identified related application. Applicants hereby amend the specification to include the requested serial number.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the objection to the specification.

OBJECTION TO THE CLAIMS

In paragraph 3 of the final Office Action, the Examiner objected to claim 85 because "CMTS" should allegedly be "the CMTS." Applicants hereby amend claim 85 in the manner suggested by the Examiner.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the objection to claim 85.

REJECTION UNDER 35 U.S.C. § 102 BASED ON NAZARATHY ET AL.

In paragraph 5 of the final Office Action, the Examiner rejected pending claims 56-58, 60, 62, 63, 66, 74-76, 78, 80, 81, 84, and 92 under 35 U.S.C. § 102(e) as allegedly anticipated by Nazarathy et al. Applicants respectfully traverse the rejection.

A proper rejection under 35 U.S.C. § 102 requires that a single reference teach every aspect of the claimed invention either expressly or impliedly. Any feature not directly taught must be inherently present. In other words, the identical invention must be shown in as complete detail as contained in the claim. See M.P.E.P. § 2131. Nazarathy et al. does not disclose or suggest the combination of features recited in claims 56-58, 60, 62, 63, 66, 74-76, 78, 80, 81, 84, and 92.

Amended independent claim 56, for example, is directed to a fiber node in a hybrid fiber-coax network located between an upstream facility and a plurality of cable modems. The fiber node comprises a cable modem termination system (CMTS) comprising a transmitter to transmit data to the cable modems as downstream analog radio frequency (RF) signals over a plurality of downstream channels; a converter to receive and digitize upstream analog RF signals from the cable modems over a plurality

of upstream channels, the digitized upstream signals including first digitized signals and second digitized signals; a receiver to receive the first digitized signals from the converter and demodulate or decode the first digitized signals to extract data from the first digitized signals, and receive the second digitized signals and packetize data from the second digitized signals without demodulating or decoding the second digitized signals; and a processor, connected to the transmitter and the receiver, to provide the data to the transmitter, receive the extracted data and the packetized data from the receiver, and send the extracted data and the packetized data together over a packet network to the upstream facility.

Nazarathy et al. does not disclose or suggest the combination of features recited in claim 56. For example, Nazarathy et al. does not disclose or suggest a CMTS that includes a receiver to receive the first digitized signals from the converter and demodulate or decode the first digitized signals to extract data from the first digitized signals, and receive the second digitized signals and packetize data from the second digitized signals without demodulating or decoding the second digitized signals. Instead, Nazarathy et al. discloses using spectral filtering to separate legacy transmissions to be transmitted in analog form back to the head-end from state-of-the-art transmissions that are digitally detected right at the node (col. 18, lines 1-5).

Because Nazarathy et al. does not disclose or suggest a receiver to receive the first digitized signals from the converter and demodulate or decode the first digitized signals to extract data from the first digitized signals, and receive the second digitized signals and packetize data from the second digitized signals without demodulating or decoding

the second digitized signals, Nazarathy et al. cannot disclose or suggest a processor to receive the extracted data and the packetized data from the receiver and send the extracted data and the packetized data together over a packet network to the upstream facility, as further recited in claim 56.

For at least these reasons, Applicants submit that claim 56 is not anticipated by Nazarathy et al. Claims 57, 58, 60, 62, 63, and 66 depend from claim 56 and are, therefore, not anticipated by Nazarathy et al. for at least the reasons given with regard to claim 56.

Amended independent claims 74 and 92 recite features similar to, but possibly different in scope from, features recited in claim 56. Claims 74 and 92 are, therefore, not anticipated by Nazarathy et al. for at least reasons similar to reasons given with regard to claim 56. Claims 75, 76, 78, 80, 81, and 84 depend from claim 74 and are, therefore, not anticipated by Nazarathy et al. for at least the reasons given with regard to claim 74.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 56-58, 60, 62, 63, 66, 74-76, 78, 80, 81, 84, and 92 based on Nazarathy et al.

*REJECTION UNDER 35 U.S.C. § 103 BASED ON
NAZARATHY ET AL. AND NAEGELI ET AL.*

In paragraph 8 of the final Office Action, the Examiner rejected claims 67-73 and 85-91 under 35 U.S.C. § 103(a) as allegedly unpatentable over Nazarathy et al. in view of Naegeli et al. Applicants respectfully traverse the rejection.

Claims 67-73 depend from claim 56, and claims 85-91 depend from claim 74. Without acquiescing in the Examiner's rejections with regard to claims 67-73 and 85-91, Applicants submit that the disclosure of Naegeli et al. does not cure the deficiencies in the disclosure of Nazarathy et al., identified above with regard to claims 56 and 74. Therefore, claims 67-73 and 85-91 are patentable over Nazarathy et al., and Naegeli et al., whether taken alone or in any reasonable combination, for at least the reasons given with regard to claims 56 and 74.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 67-73 and 85-91 based on Nazarathy et al. and Naegeli et al.

*REJECTION UNDER 35 U.S.C. § 103 BASED ON
NAZARATHY ET AL. AND BROCK ET AL.*

In paragraph 9 of the final Office Action, the Examiner rejected claims 61 and 79 under 35 U.S.C. § 103(a) as allegedly unpatentable over Nazarathy et al. in view of Brock et al. Applicants respectfully traverse the rejection.

Claim 61 depends from claim 56, and claim 79 depends from claim 74. Without acquiescing in the Examiner's rejections with regard to claims 61 and 79, Applicants submit that the disclosure of Brock et al. does not cure the deficiencies in the disclosure of Nazarathy et al., identified above with regard to claims 56 and 74. Therefore, claims 61 and 79 are patentable over Nazarathy et al. and Brock et al., whether taken alone or in any reasonable combination, for at least the reasons given with regard to claims 56 and 74.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 61 and 79 based on Nazarathy et al. and Brock et al.

CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully request the Examiner's reconsideration of this application, and the timely allowance of the pending claims.

If the Examiner does not agree that all pending claims are now in condition for allowance, the Examiner is urged to contact the undersigned to discuss the claims in order to expedite prosecution of this application.

As Applicants' remarks with respect to the Examiner's rejections overcome the rejections, Applicants' silence as to certain assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, etc.) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to dispute these assertions/requirements in the future.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the

filing of this paper, including extension of time fees, to Deposit Account No. 50-1070
and please credit any excess fees to such deposit account.

Respectfully submitted,

HARRITY SNYDER, LLP

By: /Paul A. Harrity/
Paul A. Harrity
Registration No. 39,574

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11350 Random Hills Road
Suite 600
Fairfax, Virginia 22030
(571) 432-0800

Customer Number: 44987